

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

The Woodlands Pride, Inc.; Abilene  
Pride Alliance; Extragrams, LLC; 360  
Queen Entertainment LLC; Brigitte  
Bandit,

Plaintiffs,

v.

Civil Action No. 4:23-cv-02847

Warren Kenneth Paxton, in an official  
capacity as Attorney General of Texas;  
Montgomery County, Texas; Brett  
Ligon, in an official capacity as District  
Attorney of Montgomery County; City  
of Abilene, Texas; Taylor County,  
Texas; James Hicks, in an official  
capacity as District Attorney of Taylor  
County; Delia Garza, in an official  
capacity as County Attorney of Travis  
County; Joe D. Gonzales, in an official  
capacity as District Attorney of Bexar  
County,

Defendants.

**OPPOSED MOTION TO EXTEND  
DEADLINE FOR BILL OF COSTS AND ATTORNEY'S FEES**

The Woodlands Pride, Inc., Abilene Pride Alliance, Extragrams, LLC, 360  
Queen Entertainment LLC, and Brigitte Bandit (collectively, "Plaintiffs"), file this

motion to extend the deadline to file a bill of costs and move for attorney's fees. On September 26, 2023, the Court rendered findings of fact and conclusions of law and enjoined Defendants from enforcing S.B. 12 (Dkt. 94). On September 29, 2023, Defendant Warren Kenneth Paxton, in his official capacity as Attorney General for the State of Texas, filed a notice of appeal and moved to stay all granted injunctive relief pending appeal (Dkts. 95, 96).

A prevailing party may move for attorney's fees no later than 14 days after the entry of judgment "[u]nless a statute or a court order provides otherwise." Fed. R. Civ. P. 54(d)(2)(B). An "application for costs shall be made by filing a bill of costs within 14 days of the entry of a final judgment. When attorney's fees are taxable as costs, an application for them must be made with the application for other costs." S.D. Tex. Loc. R. 54.2.

When the appeal raises questions about who may be a "prevailing party" entitled to costs and fees, courts may defer adjudicating these issues and extend the deadline to parties seeking costs or fees until after the appeal to preserve judicial resources. *See, e.g., Colonial Oaks Assisted Living Lafayette v. Hannie Dev. Inc.*, No. 6:18-CV-01606, 2019 WL 7290951, at \*1 (W.D. La. Dec. 27, 2019) ("[T]his Court believes that it would be in the interest of judicial economy and prudent to wait and consider the attorneys' fees and costs issue after the appeal has been resolved."); *Team Contractors, LLC v. Waypoint NOLA, LLC*, No. CV 16-1131,

2021 WL 5911278, at \*4 (E.D. La. Nov. 18, 2021), *report and recommendation adopted*, No. CV 16-1131, 2021 WL 5907759 (E.D. La. Dec. 14, 2021) (“Having failed to establish any prejudice from the deferral of the fee determination until after the Fifth Circuit rules and considering the substantial resources that must be expended to determine the appropriate fee award which may be mooted by the appeal, deferral of the fee determination at this time is appropriate.”). Postponing adjudication on costs and fees until the appeal is resolved would reduce the overall expenses incurred in the case, since the Parties would not have to separately litigate costs and fees issues for trial and appeal, but could file consolidated briefing all at once.<sup>1</sup>

In light of the Attorney General’s appeal, Plaintiffs respectfully request that the Court exercise its authority to extend the deadline to file a bill of costs and move for attorney’s fees to thirty (30) days after the appeals court issues the mandate in this case. If any party petitions for certiorari after the mandate issues, Plaintiffs request that the court further extend these deadlines until thirty (30) days after resolution of the petition for certiorari and any subsequent proceeding.

---

<sup>1</sup> Plaintiffs do not believe that the time limit for filing a motion for costs and fees has started running, because a separate entry of final judgment still seems to be forthcoming from the Court. In an abundance of caution and to clarify future deadlines, Plaintiffs file this motion for an extension within the 14-day window of the Court issuing its Findings of Fact and Conclusions of Law (Dkt. 94).

Respectfully submitted,

By: /s/ Brian Klosterboer

Brian Klosterboer, *attorney-in-charge*

TX Bar No. 24107833

SDTX No. 3314357

Chloe Kempf

TX Bar No. 24127325

SDTX No. 3852674

Thomas Buser-Clancy

TX Bar No. 24078344

SDTX No. 1671940

Edgar Saldivar

TX Bar No. 24038188

SDTX No. 618958

Adriana Pinon

TX Bar No. 24089768

SDTX No. 1829959

ACLU FOUNDATION OF TEXAS, INC.

P.O. Box 8306

Houston, TX 77288

Tel. (713) 942-8146

Fax (713) 942-8966

bklosterboer@aclutx.org

ckempf@aclutx.org

tbuser-clancy@aclutx.org

esaldivar@aclutx.org

apinon@aclutx.org

/s/ Emily Rohles

Emily Rohles

TX Bar No. 24125940

SDTX No. 3715273

BAKER BOTTS L.L.P.

910 Louisiana Street

Houston, TX 77002

Tel. (713) 229-1234

Fax (713) 229-1522

Emily.Rohles@BakerBotts.com

Derek R. McDonald

TX Bar No. 00786101

SDTX No. 18546

Maddy Dwertman

TX Bar No. 24092371

SDTX No. 3853795

BAKER BOTTS L.L.P.

401 S. 1<sup>st</sup> Street, Suite 1300

Austin, TX 78704

Tel. (512) 322-2500

Fax (512) 322-2501

Derek.McDonald@BakerBotts.com

Maddy.Dwertman@BakerBotts.com

Brandt Thomas Roessler

TX Bar No. 24127923

SDTX No. 3853796

BAKER BOTTS L.L.P.

30 Rockefeller Plaza

New York, NY 10112

Tel. (212) 408-2500

Fax (212) 408-2501

Brandt.Roessler@BakerBotts.com

*Attorneys for Plaintiffs*

### **CERTIFICATE OF CONFERENCE**

On the morning of October 5, 2023, Plaintiffs notified Defendants of their intent to file this motion to extend the deadline to file a bill of costs and move for attorney's fees. The City of Abilene indicated that it is opposed to the motion. No other Defendant responded before the filing of this motion.

/s/ Emily Rohles

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of October 2023, a true and correct copy of the foregoing document was served on all counsel of record via the Court's CM/ECF system.

/s/ Emily Rohles